

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|-------------------------------|---|----------------------------|
| Monode Marking Products, Inc. |) | Case No. 1:18-cv-00016-DCN |
| |) | |
| Plaintiff, |) | Judge Donald C. Nugent |
| |) | |
| v. |) | |
| |) | |
| Columbia Marking Tools, Inc. |) | |
| |) | |
| Defendant. |) | |

Motion to Extend Deadlines

Monode Marking Products, Inc. (“Monode”) respectfully moves the Court to extend all post-claim construction case deadlines, as follows:

| Event | LPR | Original Deadline | Proposed Deadline |
|--|---------|-------------------|-------------------|
| Close of Fact Discovery; Status Conference | 4.7 | October 28, 2019 | February 25, 2020 |
| Final Infringement Contentions | 3.10(b) | October 14, 2019 | February 11, 2020 |
| Final Noninfringement, Invalidity and Unenforceability Contentions | 3.10(c) | October 28, 2019 | February 25, 2020 |
| Plaintiff’s Final Validity and Enforceability Contentions | 3.10(d) | November 12, 2019 | March 11, 2020 |
| Initial Expert Witness Disclosures | 5.1(b) | November 26, 2019 | March 25, 2020 |
| Rebuttal Expert Witness Disclosures | 5.1(c) | December 26, 2019 | April 24, 2020 |
| Completion of Expert Witness Depositions | 5.2 | February 4, 2020 | June 3, 2020 |
| Dispositive Motion Deadline | 6.1 | February 14, 2020 | June 13, 2020 |
| Last Day to Conduct Trial | 6.2 | April 30, 2020 | August 28, 2020 |

Monode and Columbia Marking Tools, Inc. (“CMT”) agreed on October 8, 2019, to jointly request extension of all post-claim construction deadlines. Subsequently, however, CMT has refused to jointly move to extend Monode’s final infringement contention deadline on the basis that, notwithstanding the parties’ agreement, the parties did not file a formal motion for extension before that deadline passed. But at the same time, CMT similarly let its own

contention deadline and the fact discovery cutoff pass without formally moving for an extension, presumably in reliance on Monode's agreement to extend those dates.

Good cause generally exists to extend *all* of the post-claim construction deadlines under Federal Rule of Civil Procedure 6 because neither party has completed its fact discovery and extending those deadlines will help facilitate the parties' nascent settlement discussions. Additionally, good cause exists for extending Monode's and CMT's contention deadlines and the fact discovery cutoff because the parties agreed to extend *all* post-claim construction deadlines before any of those deadlines passed and because any delay is attributable to both parties' justifiable reliance on their agreement with each other and an intervening family emergency involving Monode's counsel.

For these reasons, as discussed more fully in Monode's memorandum in support being filed herewith,¹ Monode respectfully asks the Court to grant this motion and extend all of the post-claim construction deadlines as requested.

Respectfully submitted,

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¹ To protect family medical confidentiality, Monode is filing a redacted memorandum in support and is moving for leave to file an un-redacted version under seal.